

**NOTICE OF AMENDMENT
AND
WARNING LETTER**

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

February 11, 1997

Mr. R. C. Sandahl
Vice President - Operations
Lakehead Pipe Line Company
Lake Superior Place - St. 400
21 West Superior Street
Duluth, MN 55802

CPF No. 37514

Dear Mr. Sandahl:

On July 24-26, 1996, representatives of the Minnesota Office of Pipeline Safety (MnOPS), Department of Public Safety, acting as an agent for the Central Region, Office of Pipeline Safety (OPS), pursuant to Chapter 601 of 49 United States Code, conducted an onsite pipeline safety inspection of Lakehead's pipeline facilities from the Deer River Station to the Wisconsin state line.

As a result of the inspection, it appears that you have committed probable violations, as noted below, of the pipeline safety regulations, Title 49, Code of Federal Regulations, Part 195 and Part 199. The items inspected and the probable violations are:

1. **§ 195.402 - Procedural manual for operations, maintenance, and emergencies.**
- a) **§ 195.402(c)(2) requires the gathering of data needed for reporting accidents under Subpart B of this part in a timely and effective manner.**

Under § 195.54(b), whenever an operator receives any changes in the information reported or additions to the original report on DOT Form 7000-1, it shall file a supplemental report within 30 days.

While reviewing the Company's procedures for reporting an incident, MnOPS personnel noted that the requirement under § 195.54(b) concerning supplemental information was not

addressed in the manual. The manual should be revised to address this requirement.

- b) § 195.402(c)(3) indicates that the manual must include procedures for the operating, maintenance, and repair to the pipeline system in accordance to Subpart F.

Under § 195.226(b), an arc burn may be repaired by completely removing the notch by grinding, if the grinding does not reduce the remaining wall thickness to less than the minimum thickness required by the tolerances in the specification to which the pipe is manufactured. If a notch is not repairable by grinding, a cylinder of the pipe containing the entire notch must be removed.

Procedure 02-02-07 under Arc Burns indicates that all arc burns are to be removed as a cylinder, but then goes on to list how an arc burn can be repaired. The procedure should be clarified to indicate when the arc burn should be cut out as a cylinder and when the arc burn can be repaired.

- 2. § 195.412(a) - Inspection of rights-of-way and crossings under navigable waters.

§ 195.412(a) requires each operator, at intervals not exceeding 3 weeks (21 days), but at least 26 times each calendar year, inspect the surface conditions on or adjacent to each pipeline right-of-way. Methods of inspection include walking, driving, flying, or other appropriate means of traversing the right-of-way.

In the Floodwood district, an aerial patrol of the right-of-way was conducted on March 12. The next patrol was conducted on April 6, indicating a time interval of 25 days.

- 3. § 199.7 - Anti-drug plan.

§ 199.7(a)(4) requires each operator to maintain and follow a written anti-drug plan that conforms to the requirements of this part and DOT procedures.

§ 199.17(b) indicates that if the MRO determines there is no legitimate medical explanation for a confirmed positive test result other than the unauthorized use of a prohibited drug, the original sample must be retested if the employee makes a written request for retesting within 60 days of receipt of the final test result from the MRO. The employee may specify retesting by the original laboratory or by a second

laboratory that is certified by the Department of Health and Human Services. The operator may require the employee to pay in advance the cost of shipment (if any) and reanalysis of the sample, but the employee must be reimbursed for such expense if the retest is negative.

Lakehead's procedures allow the use of both a split specimen and single specimen for collection of the sample. On page 21 of the Drug and Alcohol Policies under "G. Reconfirmation of Analysis Authorization", it is stated (in conjunction with § 40.33(e) and (f)) that the MRO will allow a reconfirmation of the original sample (either split or single) within 72 hours.

However, as indicated by § 199.17(b), it is stated that the Company should retest the original sample if the employee makes a written request within 60 days of the receipt of the final test results from the MRO. It has been interpreted by RSPA that the 60 days pertains to single specimen collections, and that the 72 hour period is allotted for split-specimen testing only.

Therefore, the Company should revise the Drug and Alcohol procedures to reflect that if single specimens are taken, the employee has up to 60 days to request a retest. Otherwise, the manual should be revised to indicate that only split sampling will be conducted.

Under 49 United States Code § 60122, you are subject to a civil penalty not to exceed \$25,000 for each violation for each day the violation persists up to a maximum of \$500,000 for any related series of violations.

In regard to item 2, we have reviewed the circumstances and supporting documents involved for the violations in this case, and have decided not to assess you a civil penalty. We advise you, however, that should you not correct the circumstances leading to the violation we will take enforcement action when and if the continued violation comes to our attention.

Regarding items 1, and 3, when it is found that an operator's procedures are inadequate, 49 C.F.R. § 190.237 provides that the operator, after notice and opportunity for hearing may be required to amend its plans and procedures. This letter serves to provide you with notice of the inadequate procedures and the response options as prescribed under § 190.237. The operator is allowed forty-five (45) days after receipt of such notice to submit written comments or request a hearing. After considering the material presented, the Office of Pipeline Safety is required to notify the operator of the required amendment or withdraw the

notice proposing the amendment. If you do not desire to contest the notice, please provide the revised procedures within forty-five (45) days of receipt of this notice.

Sincerely,

Ivan A. Huntoon
Director, Central Region
Office of Pipeline Safety